

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RUBEN MATUK,
Plaintiff,
v.
MARTIN HOSHINO,
Defendant.

Case No. [13-cv-00204-JD](#)

**ORDER DENYING PETITIONER'S
MOTION FOR APPOINTMENT OF
COUNSEL AND RESPONDENT'S
MOTION FOR RECONSIDERATION**

Re: Dkt. Nos. 36, 37

The Court has already filed a decision on the habeas petition in this case and the Clerk has entered judgment. Dkt. Nos. 34, 35. Petitioner now moves for appointment of counsel nunc pro tunc, Dkt. No. 36, and respondent moves for reconsideration under Federal Rule of Civil Procedure 59(e). Dkt. No. 37. The Court denies both motions.

The motion for appointment of counsel is petitioner's third request. The Court denied it the first two times around. The fact that the Court granted the habeas petition in part does not alter the truth of its previous finding: petitioner "presented his claims adequately in the petition, and they are not particularly complex." Dkt. No. 9. This remains true for the portion of the petition on which petitioner prevailed. The Court consequently denies petitioner's counsel's motion for nunc pro tunc appointment.

Respondent moves the Court to "alter or amend its June 29, 2015, order granting petitioner's habeas petition in part." Dkt. No. 37 at 1. Respondent argues that "the district court clearly erred in its harmless error analysis and its failure to apply *Brecht v. Abrahamson*, 507 U.S. 619 (1993) to this case." *Id.* at 2. But any suggestion that the Court did not engage in a harmless

error analysis is incorrect. The Court clearly engaged in a harmless error analysis and found the error here was not harmless. Dkt. No. 34 at 11. Respondent's motion is denied.

IT IS SO ORDERED.

Dated: July 20, 2015



JAMES DONATO
United States District Judge

United States District Court
Northern District of California